

AMENDED IN SENATE JUNE 4, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1494**

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**Introduced by Assembly Member Eng**

February 27, 2009

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An act to amend Section 11122.5 of the Government Code, relating to public meetings.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1494, as amended, Eng. Public meetings: definition.

~~The~~

(1) *The* Bagley-Keene Open Meeting Act requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act defines “meeting” for the purposes of the act and, with the exception of teleconferencing, prohibits any use of direct communication, personal intermediaries, or technological devices employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body. Existing law specifies the contacts, conferences, and other types of gatherings that are excluded from this prohibition.

This bill would repeal that prohibition regarding the use of those communications or devices to develop a collective concurrence. The bill would instead prohibit a majority of the members of a state body from using a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. The bill

would additionally exclude from that prohibition an employee or official of a state agency engaging in a separate conversation or communication with a member of a legislative body for the propose of answering questions or providing information, as specified.

*(2) The act provides that certain activities do not apply to the prohibitions of the act, including an individual contact or conversation that is between a member of a state body and any other person.*

*This bill would specify that the individual contact or conversation between a member of a state body and any other person not otherwise violate the prohibitions of the act.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11122.5 of the Government Code is  
2 amended to read:

3 11122.5. (a) As used in this article, “meeting” includes any  
4 congregation of a majority of the members of a state body at the  
5 same time and place to hear, discuss, or deliberate upon any item  
6 that is within the subject matter jurisdiction of the state body to  
7 which it pertains.

8 (b) (1) A majority of the members of a state body shall not,  
9 outside of a meeting authorized by this chapter, use a series of  
10 communications of any kind, directly or through intermediaries,  
11 to discuss, deliberate, or take action on any item of business that  
12 is within the subject matter of the state body.

13 (2) Paragraph (1) shall not be construed to prevent an employee  
14 or official of a state agency from engaging in separate  
15 conversations or communications outside of a meeting authorized  
16 by this chapter with members of a legislative body in order to  
17 answer questions or provide information regarding a matter that  
18 is within the subject matter jurisdiction of the state agency, if that  
19 person does not communicate to members of the legislative body  
20 the comments or position of any other member or members of the  
21 legislative body.

22 (c) The prohibitions of this article do not apply to any of the  
23 following:

1 (1) Individual contacts or conversations between a member of  
2 a state body and any other person *that do not violate subdivision*  
3 *(b)*.

4 (2) (A) The attendance of a majority of the members of a state  
5 body at a conference or similar gathering open to the public that  
6 involves a discussion of issues of general interest to the public or  
7 to public agencies of the type represented by the state body, if a  
8 majority of the members do not discuss among themselves, other  
9 than as part of the scheduled program, business of a specified  
10 nature that is within the subject matter jurisdiction of the state  
11 body.

12 (B) Subparagraph (A) does not allow members of the public  
13 free admission to a conference or similar gathering at which the  
14 organizers have required other participants or registrants to pay  
15 fees or charges as a condition of attendance.

16 (3) The attendance of a majority of the members of a state body  
17 at an open and publicized meeting organized to address a topic of  
18 state concern by a person or organization other than the state body,  
19 if a majority of the members do not discuss among themselves,  
20 other than as part of the scheduled program, business of a specific  
21 nature that is within the subject matter jurisdiction of the state  
22 body.

23 (4) The attendance of a majority of the members of a state body  
24 at an open and noticed meeting of another state body or of a  
25 legislative body of a local agency as defined by Section 54951, if  
26 a majority of the members do not discuss among themselves, other  
27 than as part of the scheduled meeting, business of a specific nature  
28 that is within the subject matter jurisdiction of the other state body.

29 (5) The attendance of a majority of the members of a state body  
30 at a purely social or ceremonial occasion, if a majority of the  
31 members do not discuss among themselves business of a specific  
32 nature that is within the subject matter jurisdiction of the state  
33 body.

34 (6) The attendance of a majority of the members of a state body  
35 at an open and noticed meeting of a standing committee of that  
36 body, if the members of the state body who are not members of  
37 the standing committee attend only as observers.